

SALES AND USE TAX

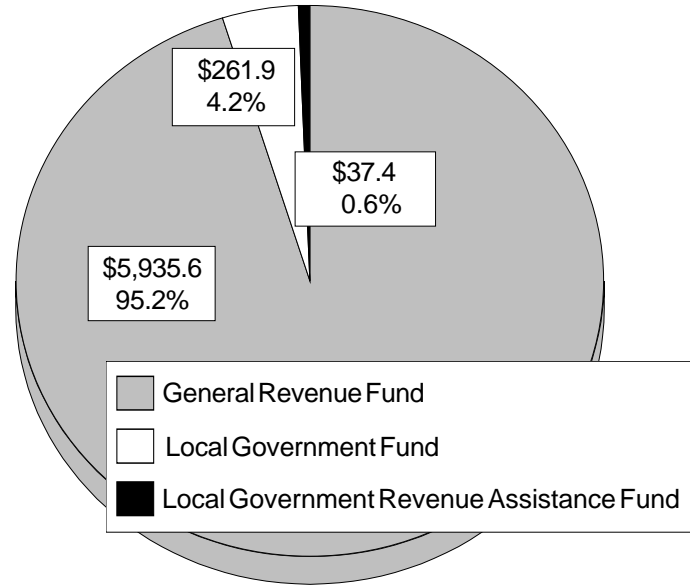
Note: Permissive sales and use tax information is reported on a calendar year basis. However, in Table 68 on page 133, the figures given are based on a fiscal year.

The Ohio sales and use tax went into effect in January 1935. The sales tax rate was 3.0 percent until 1967, when a 4.0 percent rate was adopted. After imposing a temporary 5.0 percent sales tax during the period of January through June 1981, a permanent 5.0 percent rate was adopted in November 1981. The sales and use tax originally was restricted to the sale or rental of tangible personal property, but has been extended to a number of services (see **Exemption and Exceptions, Number 2, page 124**).

In 1967, the Ohio General Assembly authorized counties to levy a tax of 0.5 percent in addition to the state sales and use tax for the purpose of providing additional county general revenue. The tax is levied pursuant to a resolution of the county commissioners and is subject to repeal by majority vote of the county electorate. In January, 1982, counties were given the option of levying a full 1.0 percent permissive tax. In 1986, the Ohio General Assembly further authorized counties to levy an additional 0.5 percent sales tax subject to voter approval for one or more of the following purposes: (1) payment of bonds issued for a convention facility; (2) revenue for a transit authority; (3) additional county general revenue; (4) revenue for permanent improvements; (5) implementation and operation of a 9-1-1 system. If the additional levy is solely for general revenue, the county commissioners may levy it pursuant to a resolution, but it is subject to repeal by a majority vote of the county electorate. In July, 1987, counties and transit authorities were authorized to levy the permissive tax in quarter percent increments. Then, in 1993, the Ohio General Assembly authorized counties to levy the sales tax to provide revenue for the operation and maintenance of a detention facility. As of December 31, 2000, 86 counties in Ohio levied a county permissive tax. In calendar year 2000, the state collected \$1,061.6 million for county governments.

In 1974, the Ohio General Assembly authorized transit authorities to levy a tax to be collected in addition to the

Distribution of Revenues from Sales & Use Tax
Total: \$6,234.9 million
(Fiscal Year 2001)



state sales and use tax and county permissive tax for the purpose of providing revenues for public mass transit systems. The tax is levied pursuant to a resolution of the transit authority and subsequent approval by a majority of the voters at a special or general election. The tax can be levied at a rate of up to 1.5 percent in quarter percent increments. As of December 31, 2000, the Greater Cleveland, Central Ohio, Lake Tran, Miami Valley, Stark Area and Summit County Metro regional transit authorities levied a permissive sales and use tax. In calendar year 2000, the state collected approximately \$270.2 million for the transit authorities.

The state collects the combined state and local tax and returns the local share directly to the counties and transit authorities. The same exemptions and exceptions, credits, and payment dates apply to the permissive taxes as to the state tax. The sales and use tax is the second largest revenue producer for the state, amounting to approximately \$6.2 billion in fiscal year 2001. Of this amount, 4.2% or \$261.9 million is distributed to the Local Government Fund, 0.6% or \$37.4 million to the Local Government Revenue Assistance Fund, and 95.2% or \$5.9 billion is distributed to the General Revenue Fund.

Chart 7, on page 132, shows of the total collections of \$6.2 billion, \$1.0 billion or 16.4% is use tax collections.

In more recent action, the General Assembly passed House Bill 612, the Taxpayer Services Bill, which became effective September 29, 2000 (**See the Recent Legislation** section for sales tax related items). This bill, among several other sales tax changes, eliminated limited vendor's licenses. Transient vendor's license requirements were expanded to include those vendors that would have been required to have the limited vendor's licenses. The transient vendor's license fee was reduced from \$100 to \$25. The bill also eliminated all vendor's license renewal fees.

TAX BASE (R.C. 5739.01, 5741.01):

The state, county, and transit authority sales and use taxes apply to all retail sales of tangible personal property that are not specifically exempt. Retail sales also include the rental of tangible personal property, the rental of hotel rooms by transient guests, and the sales of specified services.

The county and transit authority use taxes apply to purchases made outside of the state and to purchases made from vendors located in an area which does not have the permissive sales and use tax, or levies it at a lower rate, when the property or service is used in an area that levies a permissive sales and use tax.

RATES (R.C. 5739.02, 5739.021, 5739.023, 5739.025, 5739.026, 5739.033, 5741.02, 5741.021, 5741.022, 5741.023):

The state sales and use tax rate is 5.0 percent. Counties and transit authorities are authorized to levy additional permissive taxes at rates of 0.25 percent to 1.5 percent in quarter percent increments. The applicable sales tax rate for most taxable sales is the location of the vendor. The applicable sales or use tax rate for computer services, telecommunications service, private investigation and security services, and lawn care and landscaping services is the location of the purchaser. Generally, the applicable use tax rate for all taxable sales is based on the location of the purchaser. Following are the number of jurisdictions at each tax rate as of December 31, 2000.

State Rate	Local Rate	Total Rate	Number of Jurisdictions
5.0%	--	5.00%	1 county
5.0	0.25%	5.25	1 county
5.0	0.50	5.50	5 counties
5.0	0.75	5.75	6 counties
5.0	1.00	6.00	42 counties
5.0	1.25	6.25	9 counties
5.0	1.50	6.50	23 counties
5.0	2.00	7.00	1 county

A bracket system is specified in Section 5739.025 of the Revised Code for each of the above rates.

EXEMPTIONS AND EXCEPTIONS (R.C. 5709.25, 5709.50, 5739.01, 5739.011, 5739.02, 5741.02, 6111.31, 6121.16, 6123.041):

1. Copyrighted motion picture films unless solely used for advertising;
2. Service transactions in which tangible personal property is an inconsequential element for which no separate charge is made except for the following taxable services:
 - Repair costs, installation costs;
 - Washing, cleaning, waxing, polishing, and painting of a motor vehicle;
 - Cleaning of towels, linens, and clothing used in business;
 - Automatic data processing, computer services and electronic information services used in business;
 - Telecommunication service;
 - Lawn care and landscaping;
 - Private investigation and security;
 - Building maintenance and janitorial services;
 - Employment services;
 - Employment placement services;
 - Exterminating services;
 - Physical fitness facility services;
 - Recreation and sports club services;
3. The value of motor vehicles traded-in on new motor vehicles sold by licensed new motor vehicle dealers;
4. Tangible personal property to be resold in the form received;
5. The refundable deposit paid on returnable beverage containers, cartons, and cases;
6. Tangible personal property used or consumed in commercial fishing;
7. Direct use exceptions:
 - a) Material incorporated as a component part of tangible personal property produced for sale by

- manufacturing, assembling, processing, or refining;
 - b) Material used or consumed directly in the production of tangible personal property by mining, farming, agriculture, horticulture, floriculture, or used in the production of and exploration for crude oil and natural gas;
 - c) Tangible personal property used directly in rendering a public utility service;
 - d) Tangible personal property used or consumed in the preparation for sale of printed and other reproduced material and of magazines distributed as controlled circulation publications; and,
 - e) Certain property used in making retail sales including: advertising material or catalogues used or consumed in making retail sales that price and describe property; preliminary materials sold to direct marketing vendors that will be used in printing advertising material; printed matter that offers free merchandise or chances to win sweepstakes prizes and includes advertising material; equipment primarily used to accept orders for direct marketing retail sales; and certain automatic food vending machines;
8. Tangible personal property used primarily in a manufacturing operation to produce a product for sale. The primary use exception includes, but is not necessarily limited to the following items:
 - a) Production machinery and equipment that act upon the product;
 - b) Handling and transportation equipment (except licensed motor vehicles) used in moving property in or between plants during the production process;
 - c) Property used in producing property that is used or consumed in the production of a final product (use on use);
 - d) Electricity, coke, gas, water, steam, and similar substances used in the manufacturing operation;
 - e) Catalysts, solvents, water, acids, oil, and similar consumables that interact with the product and are an integral part of the manufacturing operation; and,
 - f) Property that is used to control, physically support, or is otherwise necessary for functioning of machinery and equipment and continuation of the manufacturing operation;
 9. Tangible personal property used or consumed in the surface reclamation of mined land;
 10. Sales to U.S. Government agencies;
 11. Sales to the state or any of its political subdivisions;
 12. Food for human consumption off the premises where sold;
 13. Food sold to students in a dormitory, cafeteria, fraternity, or sorority;
 14. Newspapers;
 15. Magazine subscriptions sent by second class mail or distributed as controlled circulation publications;
 16. Motor vehicle fuel subject to the state motor fuel excise tax;
 17. Gas, water, steam, and electricity delivered through pipes, conduits, or wires by a utility company;
 18. Communication services by local telephone and telegraph companies (including cable television);
 19. WATS, 800 numbers, and other selected telecommunications services provided by long distance or local service companies;
 20. Casual sales except for motor vehicles, titled watercraft and outboard motors, snowmobiles, and all purpose vehicles;
 21. Sales by churches, non-profit organizations (excluding motor vehicles) provided that the number of sales does not exceed six days each year;
 22. Transportation of persons or property;
 23. Sales to churches, non-profit organizations included under Internal Revenue Code 501 (c)(3), non-profit scientific research organizations, and to other non-profit charitable organizations;
 24. Sales to non-profit hospitals and to those privately held homes for the aged and hospital facilities that are financed with public hospital bonds;
 25. Building and construction material sold to contractors for incorporation into real property constructed for federal, state, or local governments; for religious and certain other non-profit charitable institutions; for horticulture and livestock industries; and for other specified organizations and industries;
 26. Ships and rail rolling stock used in interstate or foreign commerce and material used for repair, alteration, or propelling such vessels;
 27. Material, machinery, equipment, and other items used in packaging property to be sold at retail;
 28. Drugs prescribed by a licensed practitioner and dispensed by a registered pharmacist; insulin and injection materials used by diabetics; urine and blood testing materials used by diabetics or persons with hypoglycemia; oxygen and oxygen equipment for personal use; hospital beds for personal use; prosthetic devices; ostomy and orthopedic devices; hearing aids; crutches; wheelchairs and wheelchair lifts; and epoetin alfa, used in end-stage renal disease;

29. Emergency and fire protection vehicles used exclusively by non-profit organizations in providing emergency and fire protection services for political subdivisions;
30. Sales to non-profit community centers and to producers offering presentations in music, dramatics, the arts, and related fields to foster public interest and education;
31. Motor vehicles sold in Ohio to nonresidents for titling and use outside the state;
32. Property used in the preparation of eggs for sale;
33. Sales of property for use in agricultural production;
34. Property manufactured in Ohio and immediately shipped outside the state for use in retail business, if sold by the manufacturer to the retailer and shipped in vehicles owned by the retailer;
35. Sales to noncommercial, educational broadcasting stations;
36. Sales of animals by non-profit animal shelters and county humane societies;
37. Items used in preserving, preparing, or serving food, or material used in maintaining or cleaning these items in a commercial food service operation;
38. Tangible personal property used in air, noise, or water pollution control facilities by holders of pollution control certificates issued by the Tax Commissioner or the Director of the Ohio Environmental Protection Agency;
39. Bulk water for residential use;
40. Tangible personal property incorporated into an energy conversion facility, solid waste energy conversion facility, or thermal efficiency improvement facility certified by the Tax Commissioner;
41. Sales of equipment used in qualified research and development;
42. Sales and installation of agricultural land tile and the sale and installation of portable grain bins to farmers;
43. Fees paid for the inspection of emission control equipment on motor vehicles;
44. Sales, leases, repairs, and maintenance of motor vehicles used primarily in providing transportation for hire;
45. Sales to state headquarters of veterans organizations chartered by Congress or recognized by the Veterans Administration (Department of Veterans Affairs);
46. Normally taxable food items sold to persons using food stamps;
47. Sales of tangible personal property used directly in providing a telecommunication service;
48. Investment metal bullion and investment coins;
49. Trade-ins on purchases of new or used watercraft or outboard motors sold by licensed boat dealers;
50. Property and labor used to fulfill a warranty or service contract;
51. Property used to store and handle purchased sales inventory in a warehouse or similar facility when the inventory is primarily distributed outside Ohio to retail stores of the person who owns or controls the warehouse, to retail stores of an affiliated group of which the owner of the warehouse is a member, or by means of direct marketing;
52. Certain motor vehicles used in ride sharing arrangements when the vendor is selling the vehicle pursuant to a contract with the Department of Transportation;
53. Sales of computer equipment used for educational purposes made to qualifying certified teachers;
54. Sales of certain tangible personal property made to qualified motor racing teams;
55. Twenty-five percent sales tax refund for qualified computer purchases for providers of electronic information service; and
56. Sales of used manufactured and mobile homes are exempt from the sales tax.

DISCOUNT (R.C. 5739.12, 5741.12):

Payment on or before the date a return is required to be filed entitles the vendor to a discount of 0.75 percent of the amount due. (Example: \$5,000 tax due - \$37.50 discount = \$4,962.50 net tax due.)

SPECIAL PROVISIONS:

1. **Cumulative Filing (Rule 5703-9-09):** Vendors who have two or more places of business in Ohio may, upon approval by the Tax Commissioner, file a single monthly consolidated return reporting on one form the information that normally is required to be reported from each location.
2. **Prearranged Agreements (R.C. 5739.05):** Vendors, such as fast food outlets, whose business is of a nature that keeping records of which sales are taxable and which exempt would impose an unreasonable burden, may be authorized by the Tax Commissioner to pay an amount based on a test check conducted to determine the proportion of taxable sales to total sales. Businesses electing this method of payment still collect the tax from customers at the time of purchase.

3. **Prepayment (R.C. 5739.05 and Rule 5703-9-08):** Vendors, such as coin operated vending machine operators, whose business is of a nature that the collection of the tax from consumers would impose an unreasonable burden, may be authorized by the Tax Commissioner to pay the tax at a predetermined rate based on an analysis of sales and prices.
4. **Construction Contractors (R.C. 5739.01):** Construction contractors are considered to be the consumers of property incorporated into the construction of or improvement to real property and, thus, responsible for paying the tax on such property.
5. **Resort Area Tax (R.C. 5739.101 - 5739.105):** Qualified municipal corporations or townships are authorized to levy a tax at the rate of 0.5 percent, 1.0 percent, or 1.5 percent on gross receipts from general sales or intrastate transportation primarily provided to and from the resort area. Receipts from this tax are for the general revenue of the township or municipality. The tax is administered by the Department of Taxation.
6. **Lodging Tax (R.C. 351.021, 5739.02, and 5739.024):** In addition to the state sales tax, municipal corporations, townships, and counties may levy an excise tax on hotel and motel room rentals at a rate not exceeding 3.0 percent. Total combined local levies cannot exceed 6.0 percent. In certain cases, a portion of the receipts are earmarked for convention centers and visitor bureaus. County Convention Facility Authorities were permitted between June 29, 1988 and December 31, 1988 to enact an additional 4.0 percent lodging tax for convention facility or sports center construction. This tax is in addition to the combined maximum 6.0 percent rate for county, township or municipal lodging taxes, thereby allowing a combined local rate of 10.0 percent.
7. **Payment by Electronic Funds Transfer (R.C. 5731.122):** Payment of tax returns is required to be made by electronic funds transfer in cases where taxpayer's annual liability exceeds \$60,000 per calendar year. Taxpayers required to use this payment method will be so notified by the Tax Commissioner. Taxpayers with lesser liabilities may request the authority to file via electronic funds transfer from the Tax Commissioner.

TAXPAYER (R.C. 5739.01, 5739.03, 5739.031, 5739.17, 5741.01):

Any person, retailer, business, organization, etc. making

retail sales or making taxable purchases on which the tax has not been paid is required to file a return and remit the tax due.

DISPOSITION OF REVENUE:

1. **State Sales and Use Tax (R.C. 5739.21, 5741.03):**
Note: House Bill 94 (124th General Assembly, FY 2002/FY 2003 Biennial Budget Bill) temporarily replaces the revenue distribution described below. During each month of the July 2001-May 2002 period, the Local Government Revenue Assistance funds will receive the same amount they each received during the corresponding month of the July 2000-May 2001 period. In June 2002 and June 2003, the funds will receive the same amount they received in June 2000.

The Local Government Fund receives 4.2 percent, the Local Government Revenue Assistance Fund 0.6 percent, and the General Revenue Fund 95.2 percent of sales and use tax collections.

2. **County Permissive Sales and Use Tax (R.C. 5739.21, 5741.03):**
 - a) One percent credited to the Local Sales Tax Administrative Fund for the use of the Tax Commissioner in defraying costs of administration;
 - b) Remainder to the county general fund.
3. **County Additional Permissive Sales and Use Tax (R.C. 5739.21, 5741.023):**
 - a) One percent credited to the Local Sales Tax Administrative Fund for the use of the Tax Commissioner in defraying costs of administration;
 - b) Remainder to the special purpose fund for which the additional tax is levied.
4. **Transit Authority Sales and Use Tax (R.C. 306.31, 5739.21, 5741.03):**
 - a) One percent credited to the Local Sales Tax Administrative Fund for the use of the Tax Commissioner in defraying costs of administration;
 - b) Remainder to the general revenue of the transit authority for the purpose of acquiring, constructing, operating, maintaining, replacing, improving, and extending transit facilities.

DESCRIPTION OF TAXPAYERS (R.C. 5739.17):

Taxpayer	Cost of License	Description
Vendor	\$25	Each person or business establishment located in Ohio making retail sales.
Service vendor	\$25	Person or business that provides automatic data processing, computer services, and electronic information services; telecommunications service; lawn care and landscaping services; private investigation, security services, building maintenance and janitorial services, employment placing services, and exterminating services; the license is valid throughout the state.
Transient vendor	\$25	Retailer who makes sales in any county in which they have no fixed place of business. The license is valid throughout the state.
Delivery vendor	\$25	Retailer who maintains no store, showroom, or similar place of business where merchandise is offered for sale, or who has no location where merchandise displayed in catalogs may be selected or picked up by customers.
Seller	No fee	Retailer located outside of Ohio who makes retail sales of property or services for storage, use, or consumption in Ohio.
Direct pay permit holder	No fee	Manufacturers or other consumers who purchase tangible personal property for which the taxable status cannot be determined at the time of purchase; these consumers are authorized to make sales and use tax payments directly to the state.
Clerks of Court	No fee	Dealers remit taxes collected on sales of motor vehicles, manufactured housing, water craft, and outboard motors to county Clerks of Court when a title is issued. Clerks of Court also collects the tax on casual sales of motor vehicles, and sales of watercraft and outboard motors required to be titled. Clerks of Court then remits these receipts to the State.
Division of Liquor Control	No fee	Collects and remits sales tax paid on alcoholic beverages sold in state controlled stores.
Consumers use tax account	No fee	Purchasers who have not paid the tax to a vendor or seller (in most cases for out-of-state transactions) make payments directly to the state.

FILING AND PAYMENT DATES (R.C. 5739.031, 5739.12, 5739.17, 5741.12, RULE 5703-9-10):

Type of Return	Taxpayer	Payment Date
Weekly	Clerks of Court	Payment on Monday for tax collected during the preceding week on motor vehicles titled.
Semi-monthly	Division of Liquor Control	By the 15th day of the month for the tax collected during the last 15 days of the previous month, and by the last day of the month for the tax collected during the first 15 days of the month on alcoholic beverages sold in state control stores or agency stores.
Monthly	Vendors, sellers, service vendors, transient vendors, delivery vendors, direct pay permit holders, consumer use tax accounts	23rd day of the month following the close of the reporting period.
Quarterly	Direct pay permit holders, consumer use tax accounts	By the 23rd day of January, April, July, and October for their tax liability during the preceding three months; this method of payment may be authorized for accounts with less than \$5,000 in quarterly tax liability.
Semi-annual	Vendors, sellers service vendors transient vendors delivery vendors	By the 23rd day of the month following the close of each semi-annual period (predetermined by filing schedule) for the tax collected during the preceding six-month period; this method of payment may be authorized for vendors and sellers whose tax liability is less than \$1,200 per six-month period.
Special Payment Requirements	All Taxpayers	Payment must be received by the 23rd day of the month following the close of the reporting period. Taxpayers whose annual liability exceeded \$60,000 will be required to pay by electronic funds transfer.

5. Resort Area Tax (R.C. 5739.102):

- a) One percent credited to the state General Revenue Fund for the cost of administering the tax;
- b) Remainder to the appropriate taxing entity.

OHIO REVISED CODE CITATIONS:

Chapters 306, 5709, 5739, 5741, 6111.

RECENT LEGISLATION:***HB 94; Effective September 6, 2001. (Biennial Budget Bill).***

R.C. 5739.01; effective September 6, 2001 - Excludes coin-operated pay telephone services from the definition of a taxable telecommunication service.

R.C. 5739 and 5741; Effective January 1, 2002.

All functions normally associated with the Treasurer of State, including the receipt of tax payments, are transferred to the Tax Commissioner.

R.C. 5739.024; Effective September 6, 2001.

Limits the interest on lodging taxes and states that the local taxing authority may include establishments with less than five rooms in the definition of hotel.

Section 140 (Temporary Law); Effective July 1, 2001.

Temporarily replaces the revenue distribution of the state sales and use tax. Basically maintains the funding of the Local Government and Local Government Revenue Assistance funds and FY 2001 levels. Please see the **Distribution of Revenue** section for details on page 127.

SB 310; Effective January 4, 2001.

R.C. 5739.024- Authorizes the financing of educational and performing art facilities by a port authority through educational and performing art facilities through surplus county lodging tax revenue and bonds.

HB 138; Effective November 3, 2000.

R.C. 5739.02-Exempts sales of fire protection and emergency vehicles and equipment, used solely for such services, to non-profit organizations that provide trauma care and emergency medical services. (Those items sold to non-profit fire protection and emergency services are currently exempt).

House Bill 612; Effective September 29, 2000 (Taxpayer Services Bill).

R.C. 5739- Changes the definition of exempted casual sales to include items that had been subjected to the taxing jurisdiction of any state.

R.C. 5739 - Clarifies sales tax treatment of charitable non-profit organizations classified under IRC 501 (c)(3).

R.C. 5739 - Requires liquor permit holders to have the liquor license in the same name that is on the vendor's license.

R.C. 5739 - The exemption for certain types of energy systems purchased between August 14, 1979 to December 31, 1985 is repealed, as it no longer applies.

R.C. 5739 and 5741 - Increase from 60 days to 120 days the amount of time for an in-state vendor to provide documentation for an exempt sale in case of audit.

R.C. 5739 - Eliminates the limited vendor's license. The transient vendor's license is expanded to include those vendors that previously were required to obtain the limited vendor's license. The transient vendor's license fee is reduced from \$100 to \$25.

R.C. 5739 - Eliminates all license renewal fees.

R.C. 5739 - Vendors may transfer their licenses between locations within the same county.

R.C. 5739 - The temporary immunity from assessments made during a 16-day period in 1981 (when the sales tax rate was temporarily increased from 4.0 percent to 5.1 percent) is repealed, as it no longer applies.

House Bill 483; Effective September 21, 2000.

Section 6 (Temporary Law) - Authorizes the Tax Commissioner to discuss with other states the development of a system to collect and administer sales and use taxes from remote sellers.

Amended Substitute House Bill 640; Effective September 14, 2000.

R.C. 5739.02(B)(15) - Adds labeling and labeling equipment to the exemption for packaging and packaging equipment.

Substitute Senate Bill 3; Effective October 3, 1999 (Electric Deregulation Bill).

R.C. 5739.011 and 5739.02 - Makes various changes to sales tax law to accommodate electric utility deregulation. Effective date of these changes is May 1, 2001.

House Bill 163; Effective July 1, 1999.

R.C. 5739 and 5741 - Clarifies exemption for the sales of used manufactured and mobile homes granted in Senate Bill 142 (122nd General Assembly) is effective for sales made on or after January 1, 2000.

House Bill 283; Effective June 30, 1999 (Biennial Budget Bill).

R.C. 5741.02 - Use tax exemption for sellers of prescription drugs for drug samples distributed free of charge to doctors, dentists, and certain other medical practitioners, effective July 1, 2001.

R.C. 5739.31 - Prohibits suspended vendors from acquiring a new vendor's license from the Tax Commissioner.

House Bill 223; Effective June 24, 1999.

R.C. 5739.02 and 5739.11 - Changes laws pertaining to licensing of retail food establishments.

House Bill 657; Effective March 30, 1999.

R.C. 505.94 - Changes the law that authorizes regulation of the activities of certain transient vendors by boards of township trustees and other local governing bodies.

Senate Bill 142; Effective March 30, 1999.

R.C. 5739.02 and 5741.02 - The sales of used manufactured and mobile homes in Ohio made on or after January 1, 2000 are not subject to the sales and use tax. Also, for the purposes of the sales and use tax, sales of a new manufactured or mobile home on or after January 1, 2000 are not considered a motor vehicle sale.

Senate Bill 173; Effective March 30, 1999.

R.C. 5739.01 - Pre-paid authorization numbers used to make phone calls or pre-paid calling cards are subject to sales tax at the point of sale. Telephone service paid for using pre-paid authorization numbers or pre-paid calling cards are not subject to sales tax. These changes are effective January 1, 2000.

RECENT SIGNIFICANT COURT DECISIONS:

American Watchmakers-Clockmakers Institute, Inc. v. Tracy, (Aug. 25, 2000), Hamilton App. No. C-990880.

The court reversed the Board of Tax Appeals holding the appellant was the consumer of items used to produce printed material. The court also held that R.C. 5739.02(E)(8) requires only that the printed material be "suitable for sale" to qualify for tax exemption.

Critser v. Tracy, (Sept. 18, 2000), B.T.A. Case No. 98-1325.

The appellant was assessed as a responsible party for unpaid taxes. The Board stated that its decision in *Hiland* was no longer controlling because of the amendments made in the 1978 Bankruptcy Act. Accordingly, trust fund taxes are not transfers of property to the debtor and a responsible party remains responsible after a bankruptcy petition is filed.

Findlay Truck Line, Inc. v. Tracy, (Nov. 24, 2000), BTA No. 97-1167.

The appellant transports grocery products and "back-hauls" commodities for tire manufacturers. The Board ruled that the truck/trailer cleaning services performed maintained the trucks/trailers and qualified for exemption under R.C. 5739.02(B)(33). The Board also ruled that purchase of pallets or pallet repair services were not entitled to exemption either under R.C. 5739.02(B)(33) (the pallets were not incorporated into the trucks) or R.C. 5739.02(B)(15) (the appellant isn't a manufacturer or retailer).

Aeroquip Corp. v. Tracy, (Dec. 15, 2000) BTA No. 97-1612.

In this decision the Board of Tax Appeals examines various aspects of the manufacturing exception and applies the law R.C. 5739.01(E)(9) and 5739.011 *et seq.* to the facts at hand. Cranes and bar cars are held to be primarily used as materials handling equipment, a mist collection, and chip recovery system are identified as the "thing transferred" during manufacturing and also held to be exempt. A CAD/CAM system, computer software, and duct collection system are held to be taxable under the Board's interpretation of the relevant statutes.

Meijer, Inc. v. Tracy, (Feb. 8, 2001), BTA No. 97-1618.

The question posed in this decision is when did a set of purchases occur. The appellant obtained a number of items that up until January 1, 1993 would qualify for the "direct use

in making a retail sales” exception. The Board found that the purchases did occur after the date the exception was curtailed and thus, none of the items in question were entitled to be exempt from taxation. Also included in the case was the question of characterization of certain items as reality vs. personalty and the exemption from taxation of devices utilized in the creation of price tags.

Simon Zalben, Responsible Party of Cleveland Trinidad Paving Co. v. Tracy, (May 11, 2001) BTA No. 98-1303.

The BTA declined to dismiss an appeal on the basis that it was filed by a non-attorney, but it did dismiss for lack of specification of error in the appeal notice. The notice stated: “We hereby appeal the attached determination regarding the proposed assessment of \$10,681.29 against our client. The commissioner’s findings are arbitrary, capricious, and void of any reference to the facts presented by petitioner.” The BTA held that this failed to specify error, as required by R.C. 5717.02 to invoke the BTA’s jurisdiction.

2233 Professor, Inc. v. Zaino, (April 20, 2001) BTA No. 00-1804.

Wooley Bulley’s Inc. v. Zaino, (May 11, 2001) BTA No. 99-1362, 99-1363.

Shirley Khan v. Zaino, (April 6, 2001) BTA No. 00-108.

St.Clair 105 Foods, Inc. v. Zaino, (March 23, 2001) BTA No. 99-2015.

Dennison Beverage & Produce, Inc. v. Tracy, (March 2, 2001) BTA 99-2088.

Abed, Inc., dba Patriot Food Mart v. Tracy, (March 9, 2001) BTA No. 98-968.

A B Beverage Corporation v. Zaino, (May 18, 2001) BTA No. 00-677.

In these cases vendors were audited for sales tax compliance and found not to have maintained the required sales records. To establish sales tax liability, sales were reconstructed using the vendors’ purchase records and mark-up percentages based on analyses of sales. The vendors raised various objections to the audit methodologies but were unable to establish error in the actions of the Tax Commissioner’s agents, and so the assessments were affirmed by the BTA.

Ronald Davis v. Tracy, (June 8, 2001), BTA No. 98-1037.

The sales manager / corporate secretary of a corporation which failed to remit sales tax was found not personally responsible under Ohio Revised Code 5739.33 by the BTA because he did not sign sales tax returns nor write checks nor supervise those who did during the audit period.

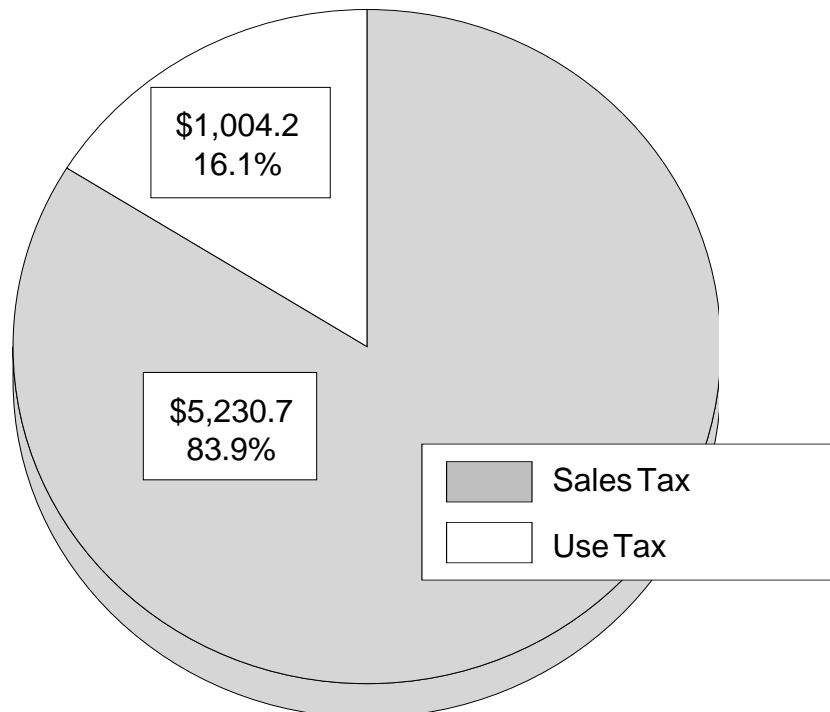
Sherie K. Hess, dba Hess Auto Service v. Zaino, (June 15, 2001), BTA No. 99-1737.

A vendor who failed to remit all of the sales tax she collected contended that she should be granted full penalty relief because she had been cooperative during the audit. The BTA found that there was no showing that the Tax Commissioner had abused his discretion in allowing only a partial relief of penalty.

L-S II Electro Galvanizing Company v. Tracy, (June 29, 2001) BTA 98-412, 99-244.

Grindstones which continually polish steel rollers which roll sheet metal being galvanized were assessed as cleaning, maintenance, or repair items under Ohio Revised Code 5739.01(E)(9). The grindstones remove any particles on the rollers that would cause blemishes in the sheet metal. The BTA held the grindstones to be exempt under Revised Code 5739.011(B)(4) as equipment “otherwise necessary for the continuation of the manufacturing operation.”

Chart 7
Revenue from Sales & Use Tax
by Type of Liability
Total: \$6,234.9 million
(Fiscal Year 2001)



Source: Office of Budget and Management and the Department of Taxation Estimates

Table 68
Sales and Use Tax -- Collections by Type of Payment,
Fiscal Years 1997-2001

Type of Payment	1997	1998	1999	2000	2001
Vendors Sales	\$3,622,896,157	\$3,792,397,760	\$4,046,087,991	\$4,260,589,704	\$4,271,688,367
Sellers Use	413,172,231	488,311,778	535,191,290	591,311,219	600,355,398
Direct Payment Sales	171,808,863	184,241,197	196,056,412	215,057,389	237,277,330
Consumers Use	131,810,175	142,152,235	149,679,380	198,852,797	201,685,868
Sales and Use Assessments and Penalties	115,641,053	100,653,475	45,551,707	30,114,792	19,091,222
Attorney General Sales and Use Tax Collections	26,693,961	32,133,003	18,932,551	15,531,839	16,217,672
Liquor Sales by Division of Liquor Control	15,446,292	16,036,456	16,625,627	17,547,457	18,671,208
Watercraft and Outboard Motors	14,547,188	16,032,925	18,198,999	19,858,098	17,580,840
Motor Vehicles and Manufactured Housing	<u>707,684,262</u>	<u>759,249,434</u>	<u>798,745,689</u>	<u>863,082,085</u>	<u>852,383,162</u>
Total	\$5,219,700,182	\$5,531,208,264	\$5,825,069,646	\$6,211,945,380	\$6,234,951,067
County and Regional Transit Authority	<u>\$1,103,697,721</u>	<u>\$1,184,070,883</u>	<u>\$1,233,834,889</u>	<u>\$1,307,857,820</u>	<u>\$1,338,834,530</u>
Grand Total	\$6,323,397,903	\$6,715,279,147	\$7,058,904,535	\$7,519,803,200	\$7,573,785,597

SOURCE: Ohio Office of Budget and Management, Monthly Revenue Report.

Table 69
Sales and Use Tax -- Number of Accounts, by Type and
Payment Schedule (As of June 30, 2001)

Accounts	P a y m e n t S c h e d u l e			
	Monthly	Semi-Annual	Quarterly	Total
Vendors	92,590	119,452	--	212,042
Sellers Use	7,720	6,946	--	14,666
Service Vendors	10,379	--	--	10,379
Transient Vendors	1,898	--	--	1,898
Delivery Vendors	1,086	--	--	1,086
Master Accounts	2,219	--	--	2,219
Consumers Use	1,038	--	12,570	13,608
Direct Pay	<u>389</u>	--	<u>367</u>	<u>756</u>
Total	117,319	126,398	12,937	256,654

Table 70
County and Transit Authority Permissive Sales Tax Collections,
Calendar Years 1996-2000

County	Tax Rate 12/31/00	A m o u n t o f T a x					Initial Enactment	Most Recent Enactment
		1996	1997	1998	1999	2000		
Adams	1.00%	\$1,242,814	\$1,413,524	\$2,163,846	\$1,714,927	\$1,709,172	June 1, 1991	June 1, 1991
Allen	1.00	10,781,017	11,206,205	11,812,923	12,396,517	12,931,861	May 1, 1970	June 1, 1987
Ashland	1.25	3,932,279	3,530,121	4,543,182	4,827,163	4,978,702	Mar. 1, 1971	Jan. 1, 1998
Ashtabula	1.00	6,437,684	6,629,584	7,154,163	7,552,178	7,943,877	Apr. 1, 1977	July 1, 1985
Athens	1.25	3,969,046	4,294,437	4,487,932	4,739,315	4,924,924	Feb. 1, 1982	Jan. 1, 1994
Auglaize	1.50	3,760,771	5,000,697	5,263,802	5,567,391	5,814,614	Nov. 1, 1973	June 1, 1996
Belmont	1.50	8,153,581	9,204,244	9,766,623	10,293,024	10,919,635	May 1, 1985	Jan. 1, 1995
Brown	1.25	2,053,425	2,093,146	2,401,378	2,573,458	2,666,335	Aug. 1, 1979	Jan. 1, 1996
Butler	0.50	11,639,281	12,166,559	13,140,269	14,231,493	15,907,481	June 1, 1985	Feb. 1, 1995
Carroll	1.00	726,060	1,292,024	1,364,596	1,486,349	1,504,183	Sep. 1, 1985	June 1, 1996
Champaign	1.00	2,136,443	2,008,650	2,358,266	2,428,019	2,487,111	Jan. 1, 1986	Jan. 1, 1986
Clark	1.00	10,220,500	14,887,162	11,989,411	11,237,543	12,089,114	Nov. 1, 1972	Feb. 1, 1998
Clermont	1.00	14,013,611	14,878,578	15,627,874	17,028,404	18,149,686	Aug. 1, 1979	Oct. 1, 1983
Clinton	1.00	3,338,751	3,183,890	3,586,807	3,696,335	3,732,794	May 1, 1972	Nov. 1, 1988
Columbiana	0.00	6,157,617	6,141,227	6,719,847	4,092,246	3,213	Aug. 1, 1985	July 1, 1999
Coshocton	1.00	2,149,884	2,182,933	2,469,656	2,716,038	2,326,158	June 1, 1971	Mar. 1, 1985
Crawford	1.50	3,587,959	3,735,806	4,091,500	4,544,496	5,013,096	May 1, 1978	July 1, 1994
Cuyahoga	1.00	131,551,234	138,518,444	146,122,594	151,304,357	161,909,936	Sep. 1, 1969	Oct. 1, 1987
Darke	1.00	3,517,003	3,579,533	3,757,174	4,015,919	4,284,155	July 1, 1975	Jan. 1, 1988
Defiance	1.00	3,427,759	3,640,686	3,947,756	4,156,527	4,224,370	Feb. 1, 1987	Feb. 1, 1987
Delaware	1.25	4,344,530	9,641,481	12,043,969	14,453,215	18,211,040	Jan. 1, 1972	Oct. 1, 1996
Erie	1.00	8,886,343	9,192,540	9,674,961	10,173,486	10,640,936	Mar. 1, 1977	May 1, 1993
Fairfield	0.75	6,843,590	7,211,971	7,941,612	9,043,396	9,341,568	Sep. 1, 1981	Aug. 1, 1995
Fayette	1.00	3,050,782	3,257,468	3,567,045	3,812,525	3,944,328	Mar. 1, 1983	July 1, 1988
Franklin	0.50	63,684,379	68,560,345	72,262,490	79,029,545	82,900,256	Sep. 1, 1985	Sep. 1, 1985
Fulton	1.00	3,274,350	3,116,970	3,416,180	3,741,901	3,932,599	May 1, 1972	Feb. 1, 1987
Gallia	1.25	2,494,713	2,763,770	3,086,185	3,323,068	3,206,415	Dec. 1, 1981	Feb. 1, 1995
Geauga	0.50	4,596,233	4,873,533	3,794,817	3,886,833	4,106,539	Aug. 1, 1987	Feb. 1, 1998
Greene	1.00	12,910,887	13,516,983	14,462,120	15,771,384	16,663,041	Mar. 1, 1971	Feb. 1, 1987
Guernsey	1.50	3,939,686	4,244,131	4,395,688	4,751,472	4,693,966	Feb. 1, 1971	Aug. 1, 1993
Hamilton	1.00	76,692,926	107,312,289	112,601,389	120,294,237	120,817,937	June 1, 1970	June 1, 1996
Hancock	0.50	3,763,423	3,892,526	4,334,591	4,519,494	4,996,051	Feb. 1, 1979	Apr. 1, 1983
Hardin	1.00	1,523,909	1,645,421	2,310,259	1,964,520	2,129,093	Oct. 1, 1985	Mar. 1, 1990
Harrison	1.50	888,873	872,820	933,654	1,056,460	1,045,888	Dec. 1, 1985	June 1, 1994
Henry	1.00	1,883,543	1,789,026	1,918,655	1,970,309	1,922,753	Mar. 1, 1972	June 1, 1986
Highland	1.00	2,160,582	2,397,948	2,472,251	2,658,210	2,764,093	May 1, 1979	Mar. 1, 1993
Hocking	1.25	1,270,189	1,400,919	1,725,376	1,959,342	2,026,495	Apr. 1, 1979	Jan. 1, 1998
Holmes	1.00	3,423,872	3,663,837	3,245,706	3,444,413	3,591,111	July 1, 1977	Jan. 1, 1998
Huron	1.50	5,572,093	5,875,584	6,194,310	6,704,027	6,936,405	Feb. 1, 1978	Jan. 1, 1996
Jackson	1.50	1,961,005	2,201,431	3,268,022	3,629,450	3,788,268	Apr. 1, 1982	Jan. 1, 1998
Jefferson	1.50	7,082,393	6,938,657	7,550,738	7,959,072	8,212,471	June 1, 1973	Nov. 1, 1994
Knox	1.00	3,152,081	3,388,716	3,585,887	3,913,759	4,129,387	May 1, 1971	Feb. 1, 1994
Lake	0.50	11,322,117	11,899,750	13,446,963	13,467,122	14,271,275	July 1, 1969	Aug. 1, 1988
Lawrence	1.50	3,486,572	3,595,027	4,567,930	5,888,298	5,907,330	June 1, 1986	June 1, 1998
Licking	1.00	10,380,040	11,140,768	11,925,092	13,270,782	14,255,769	Feb. 1, 1971	Feb. 1, 1984
Logan	1.50	3,471,051	4,408,968	5,866,233	\$5,945,219	\$6,490,540	Jan. 1, 1974	July 1, 1997
Lorain	0.75	15,230,079	15,590,022	16,384,424	17,691,695	18,596,540	July 1, 1985	July 1, 1995
Lucas	1.25	55,883,230	59,478,972	61,791,354	66,617,121	67,926,364	Feb. 1, 1971	Jan. 1, 1993
Madison	1.25	2,108,427	2,352,627	2,442,148	3,084,714	3,574,666	Mar. 1, 1983	July 1, 1999
Mahoning	1.00	21,110,822	17,031,998	13,166,020	12,506,251	23,935,036	Apr. 1, 1980	Jan. 1, 2000
Marion	1.00	4,983,734	5,270,797	5,575,083	5,802,959	6,094,993	Sep. 1, 1985	Apr. 1, 1992
Medina	0.50	5,588,402	6,048,897	6,537,994	7,173,100	7,564,323	Apr. 1, 1971	Apr. 1, 1971
Meigs	1.00	\$997,002	\$1,029,520	1,107,462	1,194,290	1,178,407	Feb. 1, 1987	Feb. 1, 1987
Mercer	1.00	2,616,465	2,731,718	2,921,555	3,051,125	3,117,588	Nov. 1, 1971	July 1, 1987
Miami	1.00	9,786,063	10,347,642	10,787,022	10,662,813	9,048,808	Dec. 1, 1969	Nov. 1, 1999
Monroe	1.50	1,323,342	1,181,438	1,132,113	1,207,193	1,280,453	Oct. 1, 1986	Nov. 1, 1994

-Continued on Page 135-

Table 70 (continued)
County and Transit Authority Permissive Sales Tax Collections,
Calendar Years 1996-2000

County	Tax Rate 12/31/00	A m o u n t o f T a x					Initial Enactment	Most Recent Enactment
		1996	1997	1998	1999	2000		
Montgomery	1.00	\$55,061,961	\$57,843,530	\$59,291,722	\$62,860,529	\$64,101,822	Jan. 1, 1971	July 1, 1989
Morgan	1.50	866,304	908,705	946,914	1,000,399	966,051	Feb. 1, 1972	Apr. 1, 1990
Morrow	1.50	1,677,313	1,766,564	1,877,688	2,080,515	2,219,450	July 1, 1971	July 1, 1995
Muskingum	1.50	10,290,305	10,936,702	11,729,991	12,556,814	13,430,005	May 1, 1971	Apr. 1, 1993
Noble	1.50	700,316	727,292	727,276	835,295	847,078	Jan. 1, 1971	Feb. 1, 1995
Ottawa	1.00	3,373,276	4,390,143	4,141,994	4,279,923	4,260,423	Oct. 1, 1973	Jan. 1, 1998
Paulding	1.50	1,283,070	1,359,136	1,436,320	1,840,801	1,528,235	Apr. 1, 1984	Nov. 1, 1991
Perry	1.00	1,178,447	1,256,215	1,355,682	1,470,176	1,505,218	Mar. 1, 1971	May 1, 1982
Pickaway	1.00	4,392,993	4,207,654	4,240,365	3,289,231	3,359,463	Oct. 1, 1983	Oct. 1, 1998
Pike	1.00	1,581,688	1,659,026	1,952,003	2,129,841	2,014,065	May 1, 1988	May 1, 1988
Portage	1.00	11,817,659	12,567,749	13,589,691	14,601,152	12,170,365	Apr. 1, 1971	Dec. 1, 1999
Preble	1.50	3,169,901	3,506,551	3,435,149	3,722,785	3,965,676	Nov. 1, 1979	May 1, 1994
Putnam	1.00	1,766,734	2,017,394	2,254,047	2,198,501	2,379,539	Jan. 1, 1974	June 1, 1987
Richland	1.25	9,018,849	9,367,218	9,770,903	14,132,541	18,222,205	June 1, 1979	May 1, 1999
Ross	1.50	8,240,819	8,792,844	9,034,923	9,413,899	10,010,337	Jan. 1, 1980	Oct. 1, 1993
Sandusky	1.00	4,392,838	4,621,062	4,987,986	5,207,216	5,638,000	Aug. 1, 1979	Aug. 1, 1995
Scioto	1.00	4,727,903	4,940,917	5,137,617	5,320,502	5,402,810	May 1, 1979	Apr. 1, 1987
Seneca	1.00	3,653,614	3,751,383	3,905,937	4,126,466	4,266,521	Oct. 1, 1983	July 1, 1988
Shelby	1.50	5,404,508	5,512,196	5,828,457	6,172,722	6,310,388	Mar. 1, 1971	Jan. 1, 1998
Stark	0.00	16,078,643	17,223,713	18,358,904	11,845,685	954,655	Jan. 1, 1987	July 1, 1999
Summit	0.50	26,468,140	28,200,093	29,677,644	30,544,906	33,231,970	Mar. 1, 1973	Nov. 1, 1995
Trumbull	0.50	12,961,433	13,414,572	14,039,304	12,376,412	10,347,754	June 1, 1985	June 1, 1999
Tuscarawas	1.00	8,760,511	9,114,475	8,911,794	8,365,581	8,550,283	Apr. 1, 1971	July 1, 1998
Union	1.00	3,336,304	3,943,913	4,138,690	4,590,268	4,535,799	Apr. 1, 1989	Apr. 1, 1989
Van Wert	1.50	2,661,032	2,897,091	3,261,252	3,314,168	3,009,268	Mar. 1, 1972	Mar. 1, 1991
Vinton	1.50	565,072	601,133	640,150	675,798	704,755	May 1, 1985	Mar. 1, 1992
Warren	1.00	11,732,405	13,117,013	15,640,249	17,402,616	18,609,304	Jan. 1, 1972	Jan. 1, 1992
Washington	1.50	6,927,591	7,006,777	7,544,000	7,906,355	8,057,457	Oct. 1, 1983	Jan. 1, 1990
Wayne	0.75	5,921,452	6,216,043	6,874,245	7,052,063	7,515,034	Mar. 1, 1971	Jan. 1, 1992
Williams	1.00	2,653,625	2,823,337	2,987,960	3,128,191	3,166,060	Dec. 1, 1977	Apr. 1, 1986
Wood	1.00	9,328,180	10,273,209	10,906,264	11,770,403	11,981,660	June 1, 1971	Nov. 1, 1987
Wyandot	1.00	<u>1,270,833</u>	<u>1,326,893</u>	<u>1,446,498</u>	<u>1,516,358</u>	<u>1,612,759</u>	Feb. 1, 1985	Jan. 1, 1988
County Total		\$845,748,162	\$925,744,502	\$975,278,513	\$1,023,952,612	\$1,061,637,557		
Cleveland RTA (Cuyahoga County)	1.00	\$131,772,627	\$138,654,205	\$146,188,752	\$151,405,646	\$161,991,565	Oct. 1, 1975	Oct. 1, 1975
Central Ohio TA0.25 (Franklin County)		31,900,177	34,516,266	36,445,397	40,163,579	42,128,119	Sep. 1, 1980	Feb. 1, 1990
LakeTran RTA (Lake County)	0.25	5,648,412	5,923,447	6,718,866	6,731,568	7,130,985	Aug. 1, 1988	Aug. 1, 1988
Miami Valley TA0.50 (Montgomery County)		27,721,134	28,925,064	29,679,763	31,445,584	32,078,659	July 1, 1980	July 1, 1980
Stark Area RTA (Stark County)	0.25	0	3,600,305	9,071,557	9,876,829	10,323,125	July 1, 1997	July 1, 1997
Metro TA (Summit County)	0.25	<u>13,133,804</u>	<u>13,977,569</u>	<u>14,800,821</u>	<u>15,283,091</u>	<u>16,548,007</u>	Feb. 1, 1991	Feb. 1, 1991
Transit Authority Total		<u>\$210,176,154</u>	<u>\$225,596,856</u>	<u>\$242,905,157</u>	<u>\$254,906,296</u>	<u>\$270,200,460</u>		
GRAND TOTAL		\$1,055,924,316	\$1,151,341,358	\$1,218,183,670	\$1,278,858,908	\$1,331,838,017		

Note: Some counties and transit authorities have repealed and then re-enacted the tax, or have changed the tax rate since the first enactment.